

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
City of Detroit, Michigan
Debtor.

Chapter 9 No. 13-53846

Hon. Steven W. Rhodes

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND ENTRY OF
ORDER WAIVING THE PROVISION OF FRBP 4001(A)(3)**

NOW COMES Bank of America, N.A. (hereinafter "Movant"), by and through its attorneys, Trott & Trott, P.C., and pursuant to 11 U.S.C. § 362(d), 11 U.S.C. § 922(b), L.B.R. 4001-1(E.D.M.), and L.B.R. 9014-1 (E.D.M.), moves for relief from the Automatic Stay to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and/or obtain possession of property commonly known as 5384 Hereford St., Detroit, MI 48224 (the "Property"); and for waiver of the provisions of Fed. R. Bankr. P. 4001 (a) (3); and in support thereof states as follows:

1. This Court has jurisdiction over the proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. On July 18, 2013, Debtor sought protection under Chapter 9 of the Bankruptcy Code.

3. That Movant is a holder of a mortgage encumbering the Property that is currently owned by the Melinda R. Cox (the "Mortgage"). **See Loan Documents, Exhibit**

6.

4. The Mortgage was recorded with the Wayne County Register of Deeds on November 24, 2008 at Liber 47607, Page 115.

5. There exists another mortgage on the Property that is in the original amount of \$10,000.00 that was granted to the City of Detroit, which was recorded with the Wayne

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County Register of Deeds on November 24, 2008 at Liber 47607, Page 124-130 (the "CoD Junior Mortgage"). **See, CoD Junior Mortgage, Exhibit 6-A.**

6. Because CoD Junior Mortgage was recorded after the Mortgage, it is junior in priority with respect to the liens that encumber the Property.

7. The approximate market value of the Property is \$14,000. **See, Broker Price Opinion, Exhibit 6-B.**

8. Trott & Trott, P.C. has been informed by Movant that the amount due and owing, is approximately \$78,468.91, which includes Movant's Attorney fees and costs for filing this motion;

9. There is sufficient cause for modification of the Automatic Stay so that Movant, and any successors or assigns, may proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and/or obtain possession of the Property because the Debtor and the bankruptcy estate will not receive any benefit from the sale of the Property with respect to the CoD Junior Mortgage as the value of the Property is less than the amount of the Mortgage held by Movant.

10. That Larry D Williamson, The Lofts at Rivertown Condominium Association, FAM City of Detroit, City of Detroit and J.D. Candler Roofing Company Inc. may have an interest in the subject property to the knowledge and belief of Movant;

11. Pursuant to LBR 9014-1(b)(4) (E.D.M.), a copy of the proposed *Order Granting Relief from the Automatic Stay and Waiving the Provision of Fed. R. Bankr. P. 4001(a)(3)* is labeled as Exhibit "1".

12. Movant also requests that in the event a hearing on this motion is held, and Movant prevails, that the Court order the submission of an order in substantial compliance with Exhibit 1 and that presentment of the order waived.

13. Concurrence from Debtor's counsel was sought by counsel for Movant on August 13, 2014, and concurrence was not given.

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WHEREFORE, Movant respectfully requests that the Court enter an Order Granting Relief from the Automatic Stay and Waiving the Provision of Fed. R. Bankr. P. 4001(a)(3) for good cause shown pursuant to 11 U.S.C. §362(d)(1) and/or (2), and that the Order is effective immediately upon entry by this Court notwithstanding the provision of Fed R. Bankr. P. 4001(a) (3); and whatever other relief the Court deems just and equitable.

Respectfully Submitted,
Trott & Trott, P.C.

Dated: October 8, 2014



~~/S/ John P. Kapitan (P61901)~~

/S/ Melissa Byrd (P66314)

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EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:
City of Detroit, Michigan
Debtor.

Chapter 9 No. 13-53846

Hon. Steven W. Rhodes

**ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND ENTRY OF
ORDER WAIVING THE PROVISIONS OF FED. R. BANKR. P. 4001 (a) (3) WITH
RESPECT TO 5384 HEREFORD ST., DETROIT, MI 48224**

Bank of America, N.A., by and through its attorneys, Trott & Trott, P.C., having filed a *Motion for Relief from the Automatic Stay and Entry of Order Waiving the Provisions of Fed. R. Bankr. P. 4001(a)(3)* (the "Motion") that seeks relief from the Automatic Stay under 11 U.S.C. § 362 so that Movant, and any successor or assign, may proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and/or obtain possession of the property commonly known as 5384 Hereford St., Detroit, MI 48224; and the Court being fully advised in the premises:

IT IS HEREBY ORDERED that Movant, and any successor or assign, is granted relief from the Automatic Stay so that it may proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and/or obtain possession of the property commonly known as 5384 Hereford St., Detroit, MI 48224.

IT IS FURTHER ORDERED that this Order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

IT IS FURTHER ORDERED that Fed. R. Bankr. P. 4001(a) (3) is waived.